

109TH CONGRESS
1ST SESSION

H. R. 2298

To provide for labor recruiter accountability, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2005

Mr. GEORGE MILLER of California (for himself, Mr. OWENS, Ms. WOOLSEY, Mr. WAXMAN, Mr. HOLT, Mr. LYNCH, Mr. GRIJALVA, Mr. MICHAUD, Mr. VAN HOLLEN, Mr. KILDEE, Ms. DELAURO, Mr. MCGOVERN, Mr. DAVIS of Illinois, Mr. EVANS, Ms. MCCOLLUM of Minnesota, Mr. KUCINICH, Mr. BROWN of Ohio, Mr. PAYNE, Ms. WATSON, Mr. WEINER, Mr. BERMAN, Mr. ABERCROMBIE, Mr. McDERMOTT, Mr. STARK, and Mr. TIERNEY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide for labor recruiter accountability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indentured Servitude
5 Abolition Act of 2005”.

6 **SEC. 2. PROTECTIONS FOR WORKERS RECRUITED ABROAD.**

7 (a) BASIC REQUIREMENTS.—(1) Each employer and
8 foreign labor contractor who engages in foreign labor con-

1 tracting activity shall ascertain and disclose to each such
2 worker who is recruited for employment the following in-
3 formation at the time of the worker's recruitment:

4 (A) The place of employment.

5 (B) The compensation for the employment.

6 (C) A description of employment activities.

7 (D) The period of employment.

8 (E) The transportation, housing, and any other
9 employee benefit to be provided and any costs to be
10 charged for each benefit.

11 (F) The existence of any labor organizing ef-
12 fort, strike, lockout, or other labor dispute at the
13 place of employment.

14 (G) The existence of any arrangements with
15 any owner or agent of any establishment in the area
16 of employment under which the contractor or em-
17 ployer is to receive a commission or any other ben-
18 efit resulting from any sales (including the provision
19 of services) by such establishment to the workers.

20 (H) Whether and the extent to which workers
21 will be compensated through workers' compensation,
22 private insurance, or otherwise for injuries or death,
23 including work related injuries and death, during the
24 period of employment and, if so, the name of the
25 State workers' compensation insurance carrier or the

1 name of the policyholder of the private insurance,
2 the name and the telephone number of each person
3 who must be notified of an injury or death, and the
4 time period within which such notice must be given.

5 (I) Any education or training to be provided or
6 made available, including the nature and cost of
7 such training, who will pay such costs, and whether
8 the training is a condition of employment, continued
9 employment, or future employment.

10 (J) A statement, approved by the Secretary of
11 Labor, describing the protections of this Act for
12 workers recruited abroad.

13 (2) No foreign labor contractor or employer shall
14 knowingly provide false or misleading information to any
15 worker concerning any matter required to be disclosed in
16 paragraph (1).

17 (3) The information required to be disclosed by para-
18 graph (1) to workers shall be provided in written form.
19 Such information shall be provided in English or, as nec-
20 essary and reasonable, in the language of the worker being
21 recruited. The Department of Labor shall make forms
22 available in English, Spanish, and other languages, as nec-
23 essary, which may be used in providing workers with infor-
24 mation required under this section.

1 (4) No fees may be charged to a worker for recruit-
2 ment.

3 (5) No employer or foreign labor contractor shall,
4 without justification, violate the terms of any working ar-
5 rangement made by that contractor or employer.

6 (6) The employer shall pay the transportation costs,
7 including subsistence costs during the period of travel, for
8 the worker from the place of recruitment to the place of
9 employment and from the place of employment to such
10 worker's place of permanent residence.

11 (7)(A) It shall be unlawful for an employer or a for-
12 eign labor contractor to fail or refuse to hire or to dis-
13 charge any individual, or otherwise discriminate against
14 an individual with respect to compensation, terms, condi-
15 tions, or privileges of employment because such individ-
16 ual's race, color, creed, sex, national origin, religion, age,
17 or disability.

18 (B) For the purposes of determining the existence of
19 unlawful discrimination under subclause (A)—

20 (i) in the case of a claim of discrimination
21 based on race, color, creed, sex, national origin, or
22 religion, the same legal standards shall apply as are
23 applicable under title VII of the Civil Rights Act of
24 1964 (42 U.S.C. 2000e et seq.);

1 (ii) in the case of a claim of discrimination
2 based on unlawful discrimination based on age, the
3 same legal standards shall apply as are applicable
4 under the Age Discrimination in Employment Act of
5 1967 (29 U.S.C. 621 et seq.); and

6 (iii) in the case of a claim of discrimination
7 based on disability, the same legal standards shall
8 apply as are applicable under title I of the Ameri-
9 cans With Disabilities Act (42 U.S.C. 12101 et
10 seq.).

11 (b) OTHER WORKER PROTECTIONS.—(1) Each em-
12 ployer shall notify the Secretary of the identity of any for-
13 eign labor contractor involved in any foreign labor con-
14 tractor activity for or on behalf of the employer. The em-
15 ployer shall be subject to the civil remedies of this Act
16 for violations committed by such foreign labor contractor
17 to the same extent as if the employer had committed the
18 violation. The employer shall notify the Secretary of the
19 identity of such a foreign labor contractor whose activities
20 do not comply with this Act.

21 (2) The Secretary shall maintain a list of all foreign
22 labor contractors whom the Secretary knows or believes
23 have been involved in violations of this Act, and make that
24 list publicly available. The Secretary shall provide a proce-
25 dure by which an employer, a foreign labor contractor, or

1 someone acting on behalf of such contractor may seek to
2 have a foreign labor contractor's name removed from such
3 list by demonstrating to the Secretary's satisfaction that
4 the foreign labor contractor has not violated this Act in
5 the previous five years.

6 (3) No foreign labor contractor shall violate, without
7 justification, the terms of any written agreements made
8 with an employer pertaining to any contracting activity or
9 worker protection under this Act.

10 (c) DISCRIMINATION PROHIBITED AGAINST WORK-
11 ERS SEEKING RELIEF UNDER THIS ACT.—No person
12 shall intimidate, threaten, restrain, coerce, blacklist, dis-
13 charge, or in any manner discriminate against any worker
14 because such worker has, with just cause, filed any com-
15 plaint or instituted, or caused to be instituted, any pro-
16 ceeding under or related to this Act, or has testified or
17 is about to testify in any such proceedings, or because of
18 the exercise, with just cause, by such worker on behalf
19 of himself or others of any right or protection afforded
20 by this Act.

21 **SEC. 3. ENFORCEMENT PROVISIONS.**

22 (a) CRIMINAL SANCTIONS.—Whoever knowingly vio-
23 lates this Act shall be fined under title 18, United States
24 Code, or imprisoned not more than one year, or both.
25 Upon conviction, after a first conviction under this section,

1 for a second or subsequent violation of this Act, the de-
2 fendant shall be fined under title 18, United States Code,
3 or imprisoned not more than three years, or both.

4 (b) ADMINISTRATIVE SANCTIONS.—(1)(A) Subject to
5 subparagraph (B), the Secretary may assess a civil money
6 penalty of not more than \$5,000 on any person who vio-
7 lates this Act.

8 (B) In determining the amount of any penalty to be
9 assessed under subparagraph (A), the Secretary shall take
10 into account (i) the previous record of the person in terms
11 of compliance with this Act and with comparable require-
12 ments of the Fair Labor Standards Act of 1938, and with
13 regulations promulgated under such Acts, and (ii) the
14 gravity of the violation.

15 (2) Any employer who uses the services of a foreign
16 labor contractor who is on the list maintained by the Sec-
17 retary pursuant to section 2(b)(2), shall, if the actions of
18 such foreign labor contractor have contributed to a viola-
19 tion of this Act by the employer, be fined \$10,000 per
20 violation in addition to any other fines or penalties for
21 which the employer may be liable for the violation.

22 (c) ACTIONS BY SECRETARY.—The Secretary may
23 take such actions, including seeking appropriate injunctive
24 relief and specific performance of contractual obligations,
25 as may be necessary to assure employer compliance with

1 terms and conditions of employment under this Act and
2 with this Act.

3 (d) WAIVER OF RIGHTS.—Agreements by employees
4 purporting to waive or to modify their rights under this
5 Act shall be void as contrary to public policy.

6 (e) REPRESENTATION IN COURT.—Except as pro-
7 vided in section 518(a) of title 28, United States Code,
8 relating to litigation before the Supreme Court, the Solie-
9 itor of Labor may appear for and represent the Secretary
10 in any civil litigation brought under this Act, but all such
11 litigation shall be subject to the direction and control of
12 the Attorney General.

13 **SEC. 4. PROCEDURES IN ADDITION TO OTHER RIGHTS OF**
14 **EMPLOYEES.**

15 The rights and remedies provided to workers by this
16 Act are in addition to, and not in lieu of, any other con-
17 tractual or statutory rights and remedies of the workers,
18 and are not intended to alter or affect such rights and
19 remedies.

20 **SEC. 5. AUTHORITY TO PRESCRIBE REGULATIONS.**

21 The Secretary of Labor shall prescribe such regula-
22 tions as may be necessary to carry out this Act.

23 **SEC. 6. DEFINITIONS.**

24 (a) IN GENERAL.—Except as otherwise provided by
25 this Act, for purposes of this Act the terms used in this

1 Act shall have the same meanings, respectively, as are
2 given those terms in section 3 of the Fair Labor Stand-
3 ards Act of 1938.

4 (b) OTHER DEFINITIONS.—As used in this Act:

5 (1) The term “United States” means any with-
6 in any State.

7 (2) The term “State” means any State of the
8 United States and includes the District of Columbia,
9 Puerto Rico, Guam, American Samoa, the Common-
10 wealth of the Northern Mariana Islands, and the
11 Virgin Islands of the United States.

12 (3) The term “foreign labor contractor” means
13 any person who for any money or other valuable
14 consideration paid or promised to be paid, performs
15 any foreign labor contracting activity.

16 (4) The term “foreign labor contracting activ-
17 ity” means recruiting, soliciting, hiring, employing,
18 or furnishing, an individual who resides outside of
19 the United States to be employed in the United
20 States.

21 (5) The term “Secretary” means the Secretary
22 of Labor.

1 (6) The term “worker” means an individual
2 who is the subject of foreign labor contracting activ-
3 ity.

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